

OFFERMAN & KING, L.L.P.
Attorneys at Law

Garry A. Offerman (1955-2008)
James W. King¹
Johnny Taylor

Of Counsel
Richard Battaglia

Board Certified -
Texas Board of Legal Specialization
¹ Consumer Bankruptcy Law

6420 Wellington Place
Beaumont, Texas 77706

Telephone (409) 860-9000
Fax (409) 860-9199



114500

July 21, 2009

Jefferson County Clerk
Attn: Civil Section
P O Box 1151
Beaumont, Texas 77704-1151

Re. Cause No 114500, *Catherine M. Bertrand v. Mann Bracken, LLP f/k/a Mann Bracken, LLC*; In the County Court at Law No 1 of Jefferson County, Texas

Dear Clerk

Enclosed are the original and one (1) copy of the Officer or Authorized Person's Return of service of Citation for the above matter

Please file the original Return among the papers of the case, and make note that Defendant, Mann Bracken, LLP f/k/a Mann Bracken, LLC, has been served

Please return a file-stamped copy of the Return to me in the enclosed self-addressed, stamped envelope

Thank you for your prompt services

Very truly yours,

Johnny Taylor

JWT/tdb
Enclosures

CORRESPONDENCE

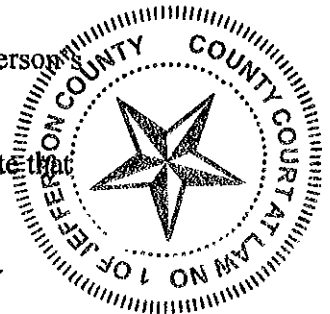
FILED FOR RECORD

Carolyn L. Guidry

2009 Jul 22, 12 30 PM

114500

CAROLYN L. GUIDRY, COUNTY CLERK
JEFFERSON COUNTY, TEXAS



I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office
8-7-09
CAROLYN L. GUIDRY, COUNTY CLERK
JEFFERSON COUNTY, TEXAS
BY Christy Derouen, DEPUTY



POPCV

114500

DOCUMENT 3472515

CAUSE NO. 114500

CATHERINE M. BERTRAND
PLAINTIFF

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§

IN THE COUNTY COURT

V.

AT LAW NO. 1

MANN BRACKEN, LLP
F/K/A MANN BRACKEN, LLC,
DEFENDANT

JEFFERSON COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

Plaintiff, CATHERINE M. BERTRAND ("Plaintiff"), complains of Defendant, MANN BRACKEN, LLP F/K/A MANN BRACKEN, LLC ("Defendant"), and would show the Court as follows:

DISCOVERY

1. Discovery is to be conducted under "Level 1" of TRCP Rule 190.

PARTIES

2. Plaintiff is an individual residing in Jefferson County, Texas.
3. Defendant is a limited liability partnership, organized under the laws of the State of Delaware, and may be served by serving its registered agent, C T Corporation System, 350 North St. Paul Street, Dallas, Dallas County, Texas 75201.

JURISDICTION & VENUE

4. This Court has subject matter jurisdiction over this lawsuit because the amount in controversy is within the jurisdictional limits of the Court. This Court has personal jurisdiction over Defendant because Defendant purposefully established minimum contacts with and within the State of Texas, because Defendant has had continuous and systematic contacts with and within the State of Texas, and because the exercise of personal jurisdiction over Defendant will



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not offend the traditional notions of fair play and substantial justice.

5. Venue is proper in Jefferson County, Texas, because it is the county in which all or a substantial part of the acts and/or omissions that form the basis of Plaintiff's claims occurred. Additionally, and/or alternatively, venue is proper in Jefferson County, Texas because it is the county in which the plaintiff resides.

FACTS

6. Defendant is a "debt collector" as defined by the Federal Fair Debt Collection Practices Act (15 U.S.C. §§ 1692, *et seq.*) (hereinafter the "FDCPA").

7. On July 10, 2008, Defendant, by and through its agent, Timothy A. Gasaway, mailed to Plaintiff a letter entitled "Notice of Intent to Sue" (the "Letter"). A true and correct copy of the Letter is attached as Exhibit "A" and is incorporated herein by reference for all purposes.

8. As can be seen from Exhibit "A", the Letter states that Defendant represented Midland Funding LLC ("Midland"), that Plaintiff owed a balance of \$1,732.23, and that Defendant intended to sue Plaintiff for the balance alleged.

9. As can be further seen from Exhibit "A", the Letter failed to include the statutorily required language set forth in 15 U.S.C. §§ 1692e(11) and 1692g. The §1692g notice was never sent to Plaintiff.

10. On October 9, 2008, Defendant, by and through its agent, Johnetta Lang, filed with the Justice Court of Jefferson County, Texas, Precinct 1, a document entitled "Plaintiff's Original Petition" (the "Petition"). A true and correct copy of the Petition is attached as Exhibit "B" and is incorporated herein by reference for all purposes.

11. As can be seen from Exhibit "B", Defendant represented that Defendant



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represented Midland and that Plaintiff owed a balance of \$1,562.69.

12. Plaintiff had satisfied the debt alleged in the Letter and the Petition in 2002. Additionally, assuming arguendo that the debt had not been satisfied, the debt alleged in the Letter and the Petition was barred by the applicable statute of limitations. The debt alleged in the Letter and the Petition is a "debt" as defined by the FDCPA.

13. At all relevant times, Timothy A. Gasaway and Johnetta Lang were acting as agents and/or employees of Defendant, were acting within the actual and apparent authority granted by Defendant, and were acting within the scope of their employment by Defendant.

CAUSES OF ACTION

13. Sending the Letter to Plaintiff violated the FDCPA because the natural consequence of which was to harass, oppress, and abuse Plaintiff.

14. Sending the Letter to Plaintiff violated the FDCPA because doing so constituted a false, deceptive, and misleading representation and means in connection with the collection of a debt.

15. Sending the Letter to Plaintiff violated the FDCPA because doing so constituted an unfair and unconscionable means to attempt to collect a debt.

16. Sending the Letter to Defendant violated the FDCPA because it failed to notify Plaintiff of her right to dispute the validity of the alleged debt and to request verification thereof and failed to include the § 1692e(11) notice.

17. Filing the Petition violated the FDCPA because the natural consequence of which was to harass, oppress, and abuse Plaintiff.

18. Filing the Petition violated the FDCPA because doing so constituted a false, deceptive, and misleading representation and means in connection with the collection of a debt.



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19. Filing the Petition violated the FDCPA because doing so constituted an unfair and unconscionable means to attempt to collect a debt.

20. Each of the foregoing violations of the FDCPA have harmed Plaintiff, and such violations are the actual and proximate cause of actual damages suffered by Plaintiff, including but not limited to stress-related injuries, out-of-pocket losses, and injuries to personal relations.

ATTORNEY'S FEES

21. Plaintiff has retained the law firm of Offerman & King, L.L.P. to prosecute her claims against Defendant, and Plaintiff has agreed to pay the undersigned attorneys a reasonable fee. Upon trial of this matter, Plaintiff requests an award of a reasonable attorney's fee. Plaintiff further seeks additional reasonable attorney's fees in the event of any appeals or Petitions for Review.

PRAYER

WHEREFORE, Plaintiff requests that this Court cite Defendant, MANN BRACKEN, LLP F/K/A MANN BRACKEN, LLC, to appear and answer and that upon final hearing, judgment is granted for Plaintiff against Defendant for:

- A. All actual damages allowed by law;
- B. All statutory damages allowed by law;
- C. Reasonable attorney's fees;
- D. Costs of Court; and
- E. Such other and further relief to which Plaintiff may be justly and legally entitled.



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Respectfully submitted,

OFFERMAN & KING, L.L.P.

BY: 

JOHNNY TAYLOR

TBN 24043953

6420 WELLINGTON PLACE

BEAUMONT, TEXAS 77706

409/860-9000 -- PHONE

409/860-9199 -- FAX

ATTORNEYS FOR PLAINTIFF,
CATHERINE M. BERTRAND



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REGIONAL OFFICES

EMPE, AZ
 GOURA HILLS, CA
 INCORD, CA
 ENVER, CO
 RLMINGTON, DE
 OCA RATON, FL
 PLANTA, GA
 OCKVILLE, MD
 OVI, MI
 INNETONKA, MN
 HARLOTTE, NC
 ARSON CITY, NV
 OCHESTER, NY

LAW OFFICES**MANN BRACKEN LLC**

Attorneys in the Practice of Debt Collection
 (A National Collection Attorney Network Firm)

6215 NORTH O'CONNOR BLVD

SUITE 1090

IRVING, TX 75039

THE SUCCESSOR BY MERGER TO WOLPOFF & ABRAMSON, LLP AND ESKANOS & ADLER, P.C.

(TOLL FREE)

1-800-830-2783

FACSIMILE (800) 893-8773

REGIONAL OFFICES

INDEPENDENCE, OH
 PORTLAND, OR
 CAMP HILL, PA
 PITTSBURGH, PA
 CLINTON, TN
 NASHVILLE, TN
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 IRVING, TX
 SAN ANTONIO, TX
 FAIRFAX, VA
 RICHMOND, VA
 VIENNA, VA
 VIRGINIA BEACH, VA

PLEASE DIRECT CORRESPONDENCE TO THE IRVING OFFICE

JULY 10, 2008

181806406
 CATHERINE M BERTRAND

2075 S MAJOR DR
 BEAUMONT TX 77707

Timothy A. Gasaway, Esq.
 ADMITTED: (TX)

File No. 181806406

Re: MIDLAND FUNDING LLC, ASSIGNEE OF PROVIDIAN BANK/CC
 CATHERINE M BERTRAND

Balance: \$ 1732.23

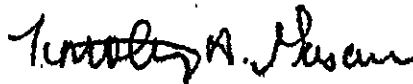
NOTICE OF INTENT TO SUE

As you are aware, this law firm represents the above client regarding your outstanding obligation. This letter shall inform you that as a result of your failure to resolve this matter, we have made the decision to initiate litigation against you.

In the event you wish to avoid the time and expense of litigation, we invite you to contact our office at 1-800-830-2783. If you wish to communicate with this office by e-mail, do not hesitate to send your e-mail to NeedHelpW@mbllc.com.om. We sincerely hope you take advantage of this opportunity to avoid the consequences of court proceedings.

Very truly yours,

MANN BRACKEN LLC




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The above attorney personally requested that this letter be sent after he/she reviewed relevant portions of our file for the purpose of making a determination to file suit.

This is an attempt by a debt collector to collect a debt and any information obtained

E/NOTICE FILE #: 181806406

10/1/09



CAUSE NO. 112739

MIDLAND FUNDING LLC.

IN THE JUSTICE COURT

SIGNEE OF PROVIDIAN BANK
Plaintiff

PRECINCT NUMBER 1-1

CATHERINE M BERTRAND

Defendant(s)

JEFFERSON COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

THE HONORABLE JUDGE OF SAID COURT:

This is a suit on a debt. Defendant(s) can be served with process at the address below.

CATHERINE M BERTRAND
2075 S MAJOR DR
BEAUMONT TX 77707

Plaintiff, MIDLAND FUNDING LLC.

ASSIGNEE OF PROVIDIAN BANK

Requests discovery be conducted at Level 1 (TRCP 190.2). In the usual course of business, Plaintiff and/or its Predecessor extended credit to Defendant for purchase of goods, services, merchandise, services, or for cash advances. Defendant, or one duly authorized accepted, used, and derived benefit from the credit account. Exhibit "A" represents a summary of transactions of which a systematic record was kept.

Defendant's failure to honor payment obligations created a balance due and owing to Plaintiff, as shown in Exhibit "A". Despite Plaintiff's timely demand payment has not been forthcoming. All conditions precedent have been performed.

The breach of Defendant led Plaintiff to employ the undersigned law firm to file suit, necessitating a reasonable fee for attorney services.

VER: Plaintiff prays judgment against Defendant be granted for \$ 1562.69, plus reasonable attorney's fee, costs of court, interest as allowed by law, and such other and further relief, legal or equitable, as this court deems appropriate.

Respectfully submitted,

MANN BRACKEN LLC

Attorneys in the Practice of Debt Collection
The Successor by Merger to Wolpoff & Abramson
L.L.P. and Eskanos & Adler, P.C.

By:

J. Lang

SBN 24036943

Robert D. Frye

SBN 07496450

5215 North O'Connor Blvd., Suite 1060, Irving, TX 75039

Tel. (800) 830-2793 / Fax (866) 593-8773

Mann Bracken LLC is the Successor by Merger to Wolpoff & Abramson, L.L.P.
Eskanos & Adler, P.C.



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_____ o'clock _____ M.

OCT 09 2008

KENNETH W. DOLLINGER

By _____, CLERK



Form 412

In _____ Court

_____ Judicial (Circuit/District)

Original Creditor Name: PROVIDIAN
 Debtor Name: BERTRAND, CATHERINE M,
 Account Number: [REDACTED] 5698

AFFIDAVIT IN SUPPORT OF JUDGMENT

State of Minnesota)

) ss.:

Stearns County)

BEFORE ME, the undersigned authority personally appeared and personally known by me, this day, and who after being duly sworn deposed and says as follows:

1. That I am a competent person over eighteen years of age. I am employed as an authorized representative for Midland Credit Management, Inc. with respect to its credit accounts. Midland Credit Management, Inc. is the servicer, for the benefit of Midland Funding LLC, of the account sued upon.
2. That in the ordinary course of business, Midland Funding LLC purchases revolving credit accounts, installment accounts and/or other credit lines from others. Midland Funding LLC is the current owner of, and/or successor to, the obligation sued upon. Midland Funding LLC predecessor in interest sold and assigned all right, title and interest in the defendant's PROVIDIAN account number [REDACTED] 6178 (Midland Credit Management, Inc. account number [REDACTED] 5698) to Midland Funding LLC
3. That based upon my personal knowledge of Midland Credit Management, Inc.'s business records and practices for servicing of its credit accounts for its principals, the contents of this Affidavit are true and correct. If called upon and sworn to testify hereto, I could and would so competently testify thereto.
4. That the scope of my job responsibilities includes the oversight of credit accounts maintained by Midland Credit Management, Inc. In the performance of my duties for Midland Credit Management, Inc., I am familiar with the manner and method by which Midland Credit Management, Inc. creates and maintains its normal business books and records, including computer records of its credit accounts.
5. That Midland Credit Management, Inc. maintains, as a regular practice of its business, computer records of activity on its accounts for its principals, including payments received, amounts owing on such accounts, credits and offsets. It is the regular practice of Midland Credit Management, Inc.'s business that entries may be made in such computer records only by individuals having personal knowledge (from examining account documentation) of the information reflected therein and that such entries be made at or near the time the events reflected in them occurred and/or that it maintains its predecessor's records without alteration.
6. That the balance due and owing to Midland Funding LLC by the accountholder(s) on account number [REDACTED] 5698 as of the date hereof is \$1,562.69 together with interest and other applicable costs.
7. That demand for payment of this amount has been made more than (30) days prior hereto and payment for the amount owing has not been tendered. There is no record of any legitimate dispute by the accountholder.



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181606406-TX

Form 412

8. That all documents attached hereto are certified to be correct originals or true and correct copies of the originals, being reproductions from the records or being evidence to establish the contents of a lost or destroyed document or computer transactional records. I declare under the penalty of perjury that the foregoing is true and correct.

9. To the best of my knowledge, the Defendant is not an Infant nor an Incompetent person.

Dated: 7/15/2008

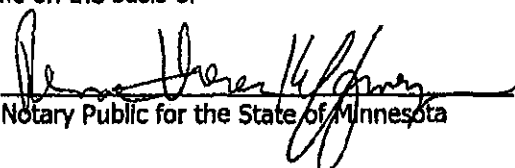

IVAN JIMENEZ

State of Minnesota

Stearns County

Subscribed and sworn to (or affirmed) before me on this 15 day of July 2008
by IVAN JIMENEZ personally known to me or proved to me on the basis of

(Seal)


Notary Public for the State of Minnesota



Mann Bracken LLC



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COUNTY CLERK'S OFFICE

2114

EXHIBIT "A"



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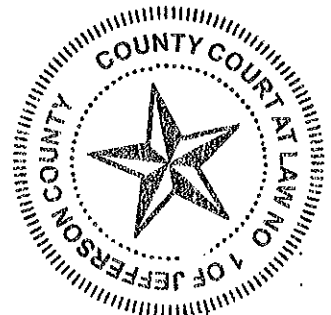
INFORMATION		Date 05/25/08	Account	0178	Mode	L	Rate
COUNT#XXXXXXXXXXXXX 5178		CLIENT# 001846	ACCT BALANCE \$1,562.69				
MT, DT 01/23/06		CLIENT NAME MIDLAND	C/O DT 09/19/06				
G-CREDITOR PROVIDIAN							
-REC-TYPE*CC-FILENO		*CC-FORM-FILE	*CC-MASCO-FILE	*CC-FORM-ID			
8525085698		5178	CA20.SUT1				
-FIRM-ID*CC1-DATE-FORM*CC1-LIST-FORM*CC1-COMM*CC1-SUIT-FEE*CC1-ORIG-AMT-OUT							
6.LAW 05/25/08		27.0	\$.00	\$1,562.69			
1-INT-AMT-OUT*CC1-ORIG-INT-DATE*CC1-CRED-NAME							
0 09/19/06		Midland Funding LLC					
1-CRED-NAME2		*CC1-CRED-ADDR	*CC1-CRED-CITY-ST				
land Funding LLC							
1-CRED-ZIP*CC1-BAL-AMT-OUT*CC1-TYPE*CC1-LEPAY-DATE*CC1-LEPAY-AMT-OUT							
0000000156269		CC01	01/23/06	\$.00			
1-OPEN-DATE*CC1-CO-DATE*CC1-CO-BAL-OUT*CC1-PORT-ID							
25/01 09/19/06		1562.69 701					
1-ORIG-CREDITOR		*CC1-ORIG-CREDITOR2					
VIDIAN							
2-DEBT-NAME		*CC2-DEBT-SALUT*CC2-DEBT-ALIAS					
TRAND/CATHERINE M							
2-DEBT-ADDR		*CC2-DEBT-CITY-ST	*CC2-DEBT-ZIP*CC2-DEBT-PHONE				
5 S MAJOR DR		BEAUMONT, TX	77707		4098612995		
2-DEBT-FAX*CC2-DEBT-SSN		*CC2-RFILE-NR*CC2-DEBT-DOB*CC2-DEBT-DRIVERS-LIC					

PETITION (PLAINTIFF'S ORIGINAL)
 FILED FOR RECORD
Carolyn L. Guidry

2009 Jul 07, 12:45 PM

114500

CAROLYN L. GUIDRY, COUNTY CLERK
 JEFFERSON COUNTY, TEXAS



I CERTIFY THIS IS A TRUE COPY
 Witness my Hand and Seal of Office

8-11-09
 CAROLYN L. GUIDRY, COUNTY CLERK
 JEFFERSON COUNTY, TEXAS

BY *Christy Derouen* DEPUTY



ANSCV

114500

DOCUMENT 3484257

CAUSE NO. 114500

CATHERINE M. BERTRAND
Plaintiff

IN THE COUNTY COURT**VS****AT LAW NUMBER ONE (1)**

MANN BRACKEN L.L.P. F/K/A
MANN BRACKEN L.L.C.
Defendant(s)

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JEFFERSON COUNTY, TEXAS**GENERAL DENIAL****TO THE HONORABLE JUDGE OF SAID COURT:**

NOW COMES Defendant, Mann Bracken L.L.P. f/k/a Mann Bracken L.L.C files this original answer to plaintiff, Catherine M. Bertrand's original petition and respectfully shows the following.

A. General Denial

1. Defendant generally denies the allegations in plaintiff's original petition

B. Prayer

- 2 For these reasons, defendant asks the court to dismiss this suit or render judgment that plaintiff take nothing, assess costs against plaintiff and award all other relief to which defendant is entitled.

Respectfully submitted by,

Mann Bracken L.L.P.
Attorneys in the Practice of Debt Collection

By, *Handwritten signature***MICHAEL J ADAMS SBN#24038732****JOHNETTA LANG SBN#24036943****THE GREAT JONES BUILDING****708 MAIN STREET, SUITE 720****Houston, Texas 77002****Tel. (800) 830-2793 / Fax (866) 593-8773**

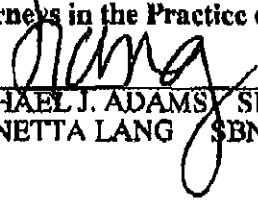
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COUNTY CLERK'S OFFICE

Handwritten initials

CERTIFICATE OF SERVICE

I hereby certify that on August 3, 2009 a true and correct copy of the foregoing Original Answer was provided to Defendant Catherine Bertrand by or through her attorney of record Johnny Taylor, 6420 Wellington Place, Beaumont, Texas 77006 by sending via fax to 409/860-9199 and first class mail in accordance with the Texas Rules of Civil Procedure.

Mann Bracken L.L.P.
Attorneys in the Practice of Debt Collection

By: 
MICHAEL J. ADAMS SBN#24038732
JOHNETTA LANG SBN#24036943

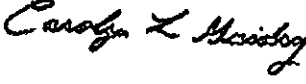
I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

8-2-09
CAROLYN L. GUIDRY, COUNTY CLERK
JEFFERSON COUNTY, TEXAS

BY  DEPUTY
Christy Derouen

ANSWER

FILED FOR RECORD



2009 Aug 03, 05 30 PM

114500

CAROLYN L. GUIDRY, COUNTY CLERK
JEFFERSON COUNTY, TEXAS

THE STATE OF TEXAS

F/K/A Mann Bracken, LLC.
TO MANN BRACKEN LLP By Serving CT CORPORATION
350 NORTH ST PAUL STREET
DALLAS, TX 75201-0000

NOTICE

You have been sued You may employ an attorney If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a m on the Monday next following the expiration of twenty days after you were served citation and petition, a default judgment may be taken against you

Said answer may be filed by mailing same to CAROLYN L GUIDRY, Jefferson County Clerk, P O Box 1151, Beaumont, Texas 77704, or by bringing it to the office located at 1001 Pearl St, Beaumont, Texas 77701, on the first floor of the new annex

The case is presently pending in the County Court at Law #1, located at 1049 Pearl St., Beaumont, Texas 77701, and was filed in said Court on 07/07/09, and numbered 0114500 on the docket

CATHERINE M. BERTRAND

VS

MANN BRACKEN, LLP F/K/A MANN BRACKEN
LLC

CITCV 114500
DOCUMENT 3478872

The name and address of attorney for plaintiff (otherwise the address of plaintiff) is

TAYLOR, JOHNNY
6420 WELLINGTON PLACE
BEAUMONT, TX 77706-0000

The nature of the demands of said plaintiff is shown by a true and correct copy of Plaintiff's Original Petition

accompanying this citation and made a part hereof

The officer executing this writ shall promptly service the same according to requirements of law, and the mandates hereof, and made due return as the law directs

Issued and given under my hand and seal of said Court at Beaumont, Texas, this 07/07/09

CAROLYN L GUIDRY
County Court of Jefferson County at Law #1

By *Mary Weathermon*
(MARY WEATHERMON) Deputy

CITATION (ORIGINAL)

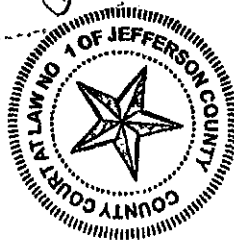
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Carolyn L Guidry

2009 Jul 22, 12 30 PM

114500

CAROLYN L GUIDRY, COUNTY CLERK
JEFFERSON COUNTY, TEXAS



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.....
DEPOTTER OR AUTHORIZED PERSON'S RETURN

Came to hand on JUL 1 day of 20, at 9:00 o'clock AM and executed in Dallas County, Texas by delivery to the with-in-named defendant in person a true copy of this Citation, with the date of delivery endorsed thereon, together with the accompanying true and correct copy of the Plaintiff's petition, at the following time and place to-wit:

Name	Address Where Served	Date	Time
Mann Bracken LLP	350 N. St. Paul St. 2900, Dallas	July 13, 09	9:45 AM

FOR RULE 106 SERVICE State person served or manner of service

FEE \$ 10.10

Signature of Authorized Person (Other than Sheriff or Constable)

Sheriff or Constable

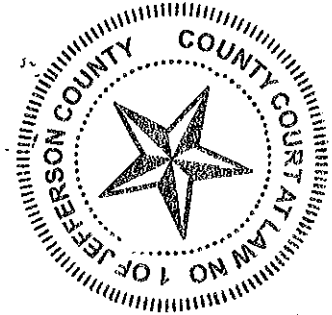
County, Texas

By *Derrick Evans*
DERICK EVANS, CONSTABLE Deputy
Dallas County Precinct 1

CITATION

clerking to the registered agent for C.T. Corp., at 350 North St. Paul, 29th floor Dallas County, Dallas, Texas 75201. Process was delivered to: *Mann Bracken LLP, 350 N. St. Paul, Dallas, Texas*

Cash 1915B
Check _____
M O _____
COUNTY OF DALLAS
PRECINCT NO 7 158915
Date July 10, 2009
Received from Cofferman & King
Address 4400 Wellington Place, Beaumont, TX 77706
For the following Citation Style of case 682
Case No. 0114500 Catherine M. Bertrand Amount 70.00
vs Mann Bracken LLP
Received by [Signature] Total Amount \$ 70.00



I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office
8-7-09
CAROLYN L. GUIDRY, COUNTY CLERK
JEFFERSON COUNTY, TEXAS
BY [Signature] DEPUTY
Christy Derouen

NOTICE: All cases filed after 10/1/08 must be filed in the new case filing system. If you are filing a case in the old system, please contact the clerk's office for more information.